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General Assembly
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Agenda items 42 and 166

Security Council
Fifty-seventh year

The situation in the Middle East

Measures to eliminate international terrorism

Letter dated 13 August 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

I wish to draw your attention to the latest deadly act of Palestinian terrorism directed against Israel.

On Saturday evening, at approximately 10.30 p.m. (local time), a Palestinian terrorist infiltrated the community of Mechora and shot to death Yafit Herenstein, age 31, at her home. Yafit's husband, Arno, who was alerted to the infiltration and rushed to the family's home, sustained serious gunshot wounds. The couple has two young daughters, ages 2 and 14 months, both whom were asleep in the house at the time of the attack and were unhurt. The Al Aqsa Brigades, the terrorist wing of Chairman Arafat's own Fatah faction, claimed responsibility.

Israel holds the Palestinian Authority and its Chairman responsible for this latest attack. While cynically paying lip service to the global campaign against terrorism, the Palestinian leadership continues to refuse to take even the most basic steps to bring an end to terrorism. In clear violation of its signed commitments, as well as resolutions of the Security Council, the Palestinian Authority has failed to confiscate illegal weapons, cease the relentless incitement to violence in the official Palestinian media and end the celebration and glorification of acts of mass murder.

Rather than Palestinian leadership has continued its policy of both active and tacit support for terrorism by providing moral and logistical support to terrorist organizations and by assuring free passage and safe harbour to known terrorist operatives. Moreover, while purporting to condemn acts of terrorism, it continues to justify certain attacks as acts of "legitimate resistance". On numerous occasions, most recently in the course of the resumed tenth emergency special session of the General Assembly on 5 August 2002, the Palestinian Observer explicitly argued that some Palestinian attacks are legitimate under international law. The Palestinian Observer apparently believes that the premeditated murder of innocent civilians, including women and children, is acceptable so long as it is committed in the West

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Bank or Gaza. He would be well served to bear in mind the words of the Secretary-General before the General Assembly on 1 October 2001: "There can be no acceptance of those who would seek to justify the deliberate taking of innocent civilian life, regardless of cause or grievance" (see A/56/PV.12, p. 3).

In the light of the Palestinian position, Israel is left with no choice but to continue to take the measures necessary to protect its citizens from the constant threat of terrorist activity. Such measures, while unable to prevent every attempted action, have successfully thwarted dozens of attacks and have kept the civilian death toll from rising far higher.

Israel calls upon the international community to unequivocally condemn Palestinian attacks against Israeli civilians as well as the ongoing support for these attacks provided by the Palestinian leadership. Israel further calls upon the Palestinian leadership to take action, in accordance with its legal and moral obligations, to prevent its territory from serving as a base for attacks on civilian targets. Progress towards peace and the fulfilment of the needs and aspirations of both sides will only be possible once genuine efforts are made to bring an end to the illegal and unjustifiable murder of innocent Israeli civilians.

I submit this letter in follow-up to numerous letters detailing the campaign of Palestinian terrorism that began in September 2000.

I should be grateful if you would arrange to have the text of this letter circulated as a document of the fifty-sixth session of the General Assembly, under agenda items 42 and 166, and of the Security Council.

(*Signed*) Aaron **Jacob**
Ambassador
Chargé d'affaires a.i.

United Nations A/57/297–S/2002/920

General Assembly
Security Council

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General Assembly
Fifty-seventh session
Items 36 and 78 of the provisional agenda*

The situation in the Middle East

Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Security Council
Fifty-seventh year

Letter dated 12 August 2002 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

Upon instructions from the Government of the Syrian Arab Republic, I have the honour to convey herewith information on the harsh and inhuman treatment by Israel of the students of the occupied Syrian Golan upon their return to join their families during the summer holiday (see annex).

It would be greatly appreciated if this letter and its annex were circulated as a document of the General Assembly, under items 36 and 78 of the provisional agenda, and of the Security Council.

(*Signed*) Mikhail **Wehbe**
Ambassador
Permanent Representative

* A/57/150.

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Annex to the letter dated 12 August 2002 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General

[Original: Arabic]

It has been customary in past years for students from the occupied Syrian Golan studying at the University of Damascus to return to spend the summer vacation with their families by way of the Quneitra crossing point. The first party of such students left on 26 June 2002, the second on 1 July 2002 and the third on 4 July 2002. We informed students from the occupied territory of the severe ill-treatment suffered by their colleagues in terms of abuse, searches and interrogation at the crossing point, together with beatings and physical violence.

One student in the first party, Ashraf Farhat (second year of medical studies) was beaten and interrogated, his clothes, photographs and personal possessions were burnt and he was detained for five hours.

In the second party, which left on 1 July 2002, a student named Atta Najib Farhat, Chairman of the Committee of Students from the Occupied Syrian Golan at Damascus University, was beaten and abused, his clothes and personal possessions were burnt and he was then arrested on suspicion of "consorting with the enemy". This student is still under arrest and in very poor condition. His family have been categorically forbidden to see him and his lawyer has not been allowed to meet him. At the present time we have no information on Israel's treatment of the students in the third party.

This inhumane and barbarous treatment of students from the occupied Syrian Golan by the Israeli occupying forces is contrary to the provisions of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War which has been declared by resolutions of the Security Council and of the General Assembly, in particular Security Council resolution 497 (1981), adopted on 17 December 1981, as well as all the relevant resolutions of the General Assembly, the most recent of which was resolution 56/63, adopted on 10 December 2001, to be applicable to the Syrian Golan.

The Syrian Arab Republic appeals to the Secretary-General of the United Nations, to the States parties to the Fourth Geneva Convention and to all States and organizations that uphold international humanitarian law and human rights to intervene to stop violations by Israel of the most elementary principles of international law and to secure the release of the Syrian Arab detainees in the occupied Syrian Golan, including the student Atta Najib Farhat.

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Report of the Secretary-General on the work of the Organization

Security Council
Fifty-seventh year

Letter dated 12 August 2002 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General

Under instructions from my Government, I have the honour to transmit herewith a letter dated 11 August 2002 from Inam ul Haque, Minister of State for Foreign Affairs of the Islamic Republic of Pakistan, addressed to Your Excellency regarding the so-called State Assembly elections being organized by the Government of India in four phases in Indian Occupied Jammu and Kashmir from 16 September 2002 (see annex).

I would be grateful if the text of the present letter could be circulated as an official document of the General Assembly, under agenda item 10, and of the Security Council.

(*Signed*) Munir **Akram**
Permanent Representative

02-52164 (E) 140802

Annex to the letter dated 12 August 2002 from the Permanent Representative of Pakistan to the United Nations addressed to the Secretary-General

Islamabad, 11 August 2002

The Government of India has announced a schedule for the conduct of a four-phase election from 16 September 2002 for the so-called State Assembly in Indian Occupied Jammu and Kashmir. This electoral exercise is another attempt by the Indian Government to give an appearance of legitimacy to its illegal and forcible occupation of Jammu and Kashmir. The Indian Government has repeatedly, since 1951, tried this ploy in a vain attempt to acquire some legitimacy for its occupation of Kashmir.

2. The position of the Government of Pakistan on this issue stems from the relevant Security Council resolutions that promised the Kashmiri people their right to determine their own future through a United Nations-supervised plebiscite. The Security Council has, through its resolutions, clearly pronounced itself on such "electoral" exercises. Security Council resolution 91 (1951) of 30 March 1951 stipulated as follows:

> "*Reminding* the Governments and authorities concerned of the principle embodied in its resolutions 47 (1948) of 21 April 1948, 51 (1948) of 3 June 1948 and 80 (1950) of 14 March 1950 and the United Nations Commission for India and Pakistan resolutions of 13 August 1948, and 5 January 1949, that *the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations*,
>
> "*Affirming* that the convening of a constituent assembly as recommended by the General Council of the 'All Jammu and Kashmir National Conference' and any action that assembly might attempt to take to determine the future shape and affiliation of the entire State or any part thereof would not constitute a disposition of the State in accordance with the above principle" [emphasis added].

3. Security Council resolution 122 (1957) of 24 January 1957 had the following to say:

> ["*The Security Council* ...]
>
> "*Reaffirms* the affirmation in its resolution 91 (1951) and declares that the convening of a constituent assembly as recommended by the General Council of the 'All Jammu and Kashmir National Conference' and any action that assembly may have taken or might attempt to take to determine the future shape and affiliation of the entire State or any part thereof, or action by the parties concerned in support of any such action by the assembly, would not constitute a disposition of the State in accordance with the above principle."

4. The last State Assembly elections held in Indian occupied Kashmir in 1996 took place against a backdrop of years of brutalization of the Kashmiri people by the Indian occupation forces. Tens of thousands of security personnel were deployed to round up Kashmiri civilians and to force them to go to the polling booths. Despite this unprecedented coercion, voter participation remained abysmally low. For the forthcoming elections, thousands of troops, in addition to the 700,000 Indian army and security forces already present in Indian Occupied Kashmir, are being inducted into the Occupied Territory for the same purpose.

5. If the past is any guide, the planned elections will be devoid of popular participation and will be rigged to obtain predetermined results. While the Indian Government may be in a position to impose illegal and fraudulent elections on the unwilling Kashmiri people in the intimidating presence and pressure of hundreds of thousands of battle-ready troops, the exercise certainly would not carry any semblance of legitimacy.

6. The sole credible voice of the Kashmiri people, the All Parties Hurriyet Conference (APHC) has already rejected the Indian attempt to foist an illegal election on the Kashmiris. In its typical repressive response to the unambiguous position adopted by the APHC, the Indian Government has arrested three leaders, namely Abdul Aziz Sheikh, Yasin Malik and Syed Ali Shah Gilani, out of the seven-member Executive Council of APHC. This is in addition to the arrest of more than 25 other leaders belonging to the APHC as well as hundreds of political activists.

7. There is no let-up in the reign of terror let loose by the 700,000 Indian troops in the State. In fact under the garb of countering terrorism, there has been an upsurge in the Indian oppression and atrocities in Indian Occupied Jammu and Kashmir, where an atmosphere of intimidation, coercion and fear continues to remain all-pervasive.

8. India is also engaged in a well-thought-out plan to muddle the issue by claiming that peaceful elections in Indian Occupied Kashmir would be a litmus test of Pakistan's sincerity for a dialogue with India. This stance is unreasonable and self-serving. Pakistan cannot be asked to accept any responsibility for developments inside Indian Occupied Kashmir. Nor can the onus of the failure of elections be laid at the door of Pakistan by India. The Kashmiri struggle is an indigenous uprising and Pakistan cannot be held responsible for the rejection by the Kashmiri people of such sham elections in the Occupied Territory. Furthermore, the APHC is the representative of the Kashmiri people. It is not for Pakistan to tell the APHC whether to participate or not to participate in the elections. The APHC makes its own decisions.

9. The fraudulent and illegitimate electoral exercise in Indian Occupied Kashmir will not promote a peaceful and just settlement of the Kashmir dispute. It will only prolong the agony of the people of Jammu and Kashmir. It is our view that instead of organizing another electoral farce in Indian Occupied Kashmir, India should enter into a serious and results-oriented dialogue with Pakistan, with the participation of the APHC leadership, to find a fair, durable and honourable solution to the Kashmir dispute in accordance with the principles of justice and international legality as well as the wishes of the Kashmiri people. I would request Your Excellency to use your good offices to achieve this objective as mandated by the Security Council and United Nations Commission for India and Pakistan resolutions.

(*Signed*) Inam ul **Haque**
Minister of State for Foreign Affairs

United Nations S/2002/922

Security Council

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Draft resolution

The Security Council,

Reaffirming its resolutions 827 (1993) of 25 May 1993, 955 (1994) of 8 November 1994, 1165 (1998) of 30 April 1998, 1166 (1998) of 13 May 1998, 1329 (2000) of 30 November 2000 and 1411 (2002) of 17 May 2002,

Having considered the letter from the Secretary-General to the President of the Security Council dated 14 September 2001 (S/2001/764) and the annexed letter from the President of the International Tribunal for Rwanda addressed to the Secretary-General dated 9 July 2001,

Having considered also the letter from the Secretary-General to the President of the Security Council dated 4 March 2002 (S/2002/241) and the annexed letter from the President of the International Tribunal for Rwanda addressed to the Secretary-General dated 6 February 2002,

Convinced of the need to establish a pool of ad litem judges in the International Tribunal for Rwanda in order to enable the International Tribunal for Rwanda to expedite the conclusion of its work at the earliest possible date and determined to follow closely the progress of the operation of the International Tribunal for Rwanda,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* to establish a pool of ad litem judges in the International Tribunal for Rwanda, and to this end *decides* to amend articles 11, 12 and 13 of the Statute of the International Tribunal for Rwanda and to replace those articles with the provisions set out in annex I to this resolution and *decides also* to amend articles 13 bis and 14 of the Statute of the International Tribunal for the Former Yugoslavia and to replace those articles with the provisions set out in annex II to this resolution;

2. *Requests* the Secretary-General to make practical arrangements for the election as soon as possible of eighteen ad litem judges in accordance with Article 12 ter of the Statute of the International Tribunal for Rwanda and for the timely provision to the International Tribunal for Rwanda of personnel and facilities, in particular, for the ad litem judges and related offices of the Prosecutor, and *further requests* him to keep the Security Council closely informed of progress in this regard;

3. *Urges* all States to cooperate fully with the International Tribunal for Rwanda and its organs in accordance with their obligations under resolution 955 (1994) and the Statute of the International Tribunal for Rwanda;

4. *Decides* to remain actively seized of the matter.

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International Tribunal for Rwanda

Annex I

Article 11
Composition of the Chambers

1. The Chambers shall be composed of sixteen permanent independent judges, no two of whom may be nationals of the same State, and a maximum at any one time of four ad litem independent judges appointed in accordance with article 12 ter, paragraph 2, of the present Statute, no two of whom may be nationals of the same State.

2. Three permanent judges and a maximum at any one time of four ad litem judges shall be members of each Trial Chamber. Each Trial Chamber to which ad litem judges are assigned may be divided into sections of three judges each, composed of both permanent and ad litem judges. A section of a Trial Chamber shall have the same powers and responsibilities as a Trial Chamber under the present Statute and shall render judgement in accordance with the same rules.

3. Seven of the permanent judges shall be members of the Appeals Chamber. The Appeals Chamber shall, for each appeal, be composed of five of its members.

4. A person who for the purposes of membership of the Chambers of the International Tribunal for Rwanda could be regarded as a national of more than one State shall be deemed to be a national of the State in which that person ordinarily exercises civil and political rights.

Article 12
Qualifications of judges

The permanent and ad litem judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers and sections of the Trial Chambers, due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

Article 12 bis
Election of permanent judges

1. Eleven of the permanent judges of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for permanent judges of the international Tribunal for Rwanda from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 12 of the present Statute, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge who is a member of the Appeals Chamber and who was elected or appointed a permanent judge of the

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (hereinafter referred to as "the International Tribunal for the Former Yugoslavia") in accordance with article 13 bis of the Statute of that Tribunal;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-two and not more than thirty-three candidates, taking due account of the adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect eleven permanent judges of the International Tribunal for Rwanda. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

2. In the event of a vacancy in the Chambers amongst the permanent judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of article 12 of the present Statute, for the remainder of the term of office concerned.

3. The permanent judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of the permanent judges of the International Tribunal for the Former Yugoslavia. They shall be eligible for re-election.

Article 12 ter
Election and appointment of ad litem judges

1. The ad litem judges of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for ad litem judges of the International Tribunal for Rwanda from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to four candidates meeting the qualifications set out in article 12 of the present Statute, taking into account the importance of a fair representation of female and male candidates;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than thirty-six candidates, taking due account of the adequate representation of the principal legal systems of the world and bearing in mind the importance of equitable geographical distribution;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the eighteen ad litem judges of the International Tribunal for Rwanda. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected;

(e) The ad litem judges shall be elected for a term of four years. They shall not be eligible for re-election.

2. During their term, ad litem judges will be appointed by the Secretary-General, upon request of the President of the International Tribunal for Rwanda, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including, three years. When requesting the appointment of any particular ad litem judge, the President of the International Tribunal for Rwanda shall bear in mind the criteria set out in article 12 of the present Statute regarding the composition of the Chambers and sections of the Trial Chambers, the considerations set out in paragraphs 1 (b) and (c) above and the number of votes the ad litem judge received in the General Assembly.

Article 12 quater
Status of ad litem judges

1. During the period in which they are appointed to serve in the International Tribunal for Rwanda, ad litem judges shall:

(a) Benefit from the same terms and conditions of service mutatis mutandis as the permanent judges of the International Tribunal for Rwanda;

(b) Enjoy, subject to paragraph 2 below, the same powers as the permanent judges of the International Tribunal for Rwanda;

(c) Enjoy the privileges and immunities, exemptions and facilities of a judge of the International Tribunal for Rwanda.

2. During the period in which they are appointed to serve in the International Tribunal for Rwanda, ad litem judges shall not:

(a) Be eligible for election as, or to vote in the election of, the President of the International Tribunal for Rwanda or the Presiding Judge of a Trial Chamber pursuant to article 13 of the present Statute;

(b) Have power:

(i) To adopt rules of procedure and evidence pursuant to article 14 of the present Statute. They shall, however, be consulted before the adoption of those rules;

(ii) To review an indictment pursuant to Article 18 of the present Statute;

(iii) To consult with the President of the International Tribunal for Rwanda in relation to the assignment of judges pursuant to article 13 of the present Statute or in relation to a pardon or commutation of sentence pursuant to article 27 of the present Statute;

(iv) To adjudicate in pre-trial proceedings.

Article 13
Officers and members of the Chambers

1. The permanent judges of the International Tribunal for Rwanda shall elect a President from amongst their number.

2. The President of the International Tribunal for Rwanda shall be a member of one of its Trial Chambers.

3. After consultation with the permanent judges of the International Tribunal for Rwanda, the President shall assign two of the permanent judges elected or appointed in accordance with Article 12 bis of the present Statute to be members of the Appeals Chamber of the International Tribunal for the Former Yugoslavia and eight to the Trial Chambers of the International Tribunal for Rwanda.

4. The members of the Appeals Chamber of the International Tribunal for the Former Yugoslavia shall also serve as the members of the Appeals Chamber of the International Tribunal for Rwanda.

5. After consultation with the permanent judges of the International Tribunal for Rwanda, the President shall assign such ad litem judges as may from time to time be appointed to serve in the International Tribunal for Rwanda to the Trial Chambers.

6. A judge shall serve only in the Chamber to which he or she was assigned.

7. The permanent judges of each Trial Chamber shall elect a Presiding Judge from amongst their number, who shall oversee the work of that Trial Chamber as a whole.

International Tribunal for the Former Yugoslavia

Annex II

Article 13 bis
Election of permanent judges

1. Fourteen of the permanent judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in article 13 of the Statute, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge who is a member of the Appeals Chamber and who was elected or appointed a permanent judge of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994 (hereinafter referred to as "The International Tribunal for Rwanda") in accordance with article 12 bis of the Statute of that Tribunal;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-eight and not more than forty-two candidates, taking due account of the adequate representation of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect fourteen permanent judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

2. In the event of a vacancy in the Chambers amongst the permanent judges elected or appointed in accordance with this article, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of article 13 of the Statute, for the remainder of the term of office concerned.

3. The permanent judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Court of Justice. They shall be eligible for re-election.

Article 14
Officers and members of the Chambers

1. The permanent judges of the International Tribunal shall elect a President from amongst their number.

2. The President of the International Tribunal shall be a member of the Appeals Chamber and shall preside over its proceedings.

3. After consultation with the permanent judges of the International Tribunal, the President shall assign four of the permanent judges elected or appointed in accordance with Article 13 bis of the Statute to the Appeals Chamber and nine to the Trial Chambers.

4. Two of the permanent judges of the International Tribunal for Rwanda elected or appointed in accordance with article 12 bis of the Statute of that Tribunal shall be assigned by the President of that Tribunal, in consultation with the President of the International Tribunal, to be members of the Appeals Chamber and permanent judges of the International Tribunal.

5. After consultation with the permanent judges of the International Tribunal, the President shall assign such ad litem judges as may from time to time be appointed to serve in the International Tribunal to the Trial Chambers.

6. A judge shall serve only in the Chamber to which he or she was assigned.

7. The permanent judges of each Trial Chamber shall elect a Presiding Judge from amongst their number, who shall oversee the work of the Trial Chamber as a whole.

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Letter dated 8 August 2002 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 addressed to the President of the Security Council

You will recall that in my letter dated 26 July 2002 addressed to you (S/2002/847), I brought to the attention of the Security Council the concerns of the International Tribunal for Rwanda regarding the non-cooperation of the Government of Rwanda with the International Tribunal in recent months.

Pursuant to that letter and in the light of the Rwandan Government's reply to the report of the Prosecutor of the International Tribunal dated 23 July 2002, I have the honour to bring to the attention of the Security Council, as an annex to this letter, a note by the International Tribunal for Rwanda on the Rwandan Government's reply. This note is submitted primarily for the information of the members of the Security Council.

(*Signed*) Judge Navanethem **Pillay**
President

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Annex

Note by the International Tribunal for Rwanda on the reply of the Government of Rwanda to the report of the Prosecutor of the International Tribunal to the Security Council

I. INTRODUCTION

By a letter dated 26 July 2002 (S/2002/842) from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council, the Government of Rwanda forwarded a reply of the Rwandan Government to the report of the Prosecutor of the International Tribunal for Rwanda, dated 23 July 2002.

By a letter dated 26 July 2002 (S/2002/847) from the President of the International Tribunal for Rwanda addressed to the President of the Security Council, the President of the Tribunal, acting under Article 28 of the Statute of the Tribunal, brought to the attention of the Security Council the Tribunal's concerns regarding problems that the Tribunal has experienced in recent months with Rwanda's cooperation with the Tribunal. In particular, the Judges of the International Tribunal are concerned because the Rwandan Government's failure to issue travel documents in a timely manner to facilitate the appearance of witnesses before the International Tribunal has resulted in the unavailability of witnesses and, consequently, the postponement of three trials.

Further to the letter from the President of the International Tribunal for Rwanda, the Tribunal provides here below a factual recapitulation of events that constitute a failure by the Government of Rwanda to issue travel documents for witnesses in a timely manner.

In its letter dated 26 July 2002, the Government of Rwanda stated that its reply to the report by the Prosecutor of the International Tribunal "explains to the members of the Security Council the shortcomings of the International Tribunal for Rwanda namely, inefficiency, corruption, nepotism, lack of protection of witnesses, harassment of witnesses, employing *genocidaires* as members of defence teams and investigators, mismanagement, slow pace of trials, insufficient staff and lack of competent staff, negligence and false allegations concerning the Government of Rwanda".

The Tribunal believes that the non-cooperation by Rwanda, which has caused three trials to be postponed, is the immediate issue before the Security Council for its consideration

and appropriate measures, in order to ensure that the International Tribunal can discharge the mandate it has been given by the Security Council. However, considering that the Reply of the Government of Rwanda contains a number of statements on issues concerning the treatment and protection of witnesses and other aspects of the functioning of the Tribunal that require factual clarifications, and although issues such as management of the Tribunal are primarily within the competence of other organs of the United Nations, this Note has included such clarifications as deemed necessary for information purposes only. This Note is jointly endorsed by the three organs of the International Tribunal namely, the Chambers, the Prosecutor, and the Registrar.

II. NON-COOPERATION BY RWANDA

Unavailability of Witnesses

1. On Friday, 7 June 2002, eight prosecution witnesses who were to travel from Kigali to Arusha to give testimony in the Butare case and in the Niyitegeka case on 10 June 2002 were unable to leave Kigali with ICTR Registry officials because the Rwandan Director of Immigrations declined to issue the required Laissez-passers for the witnesses. The Director of Immigration informed the ICTR official who was to accompany the witnesses to Arusha that, in a sudden departure from existing procedures, Rwandan authorities had introduced a further requirement of Certificates of Attestation of "Good Conduct" and "Proof of Identity" of the witnesses, to be issued by the relevant District Office. Meanwhile, the survivors' organization IBUKA put a continuous announcement on Rwandan Radio of a boycott of the Tribunal and urged Rwandan citizens not to travel to Arusha to give testimony.

2. The Registrar urgently contacted the Prosecutor-General of Rwanda to ensure that the witnesses were cleared to travel. The Registrar was assured that a response would be provided by the Rwandan authorities by Monday, 10 June (in the meantime, the travel of the witnesses was postponed, and they returned to their homes). On 10 June, the Registrar, not having received any response from the Rwandan authorities, telephoned the Rwandan Prosecutor-General, who was reportedly unavailable as he was travelling out of the country.

3. On 10 June, Trial Chamber II (Butare case) requested an explanation from the Registry as to the unavailability of witnesses. A Registry representative provided a verbal report on the situation in open court. On the same date the Registrar apprised the Presiding Judge of Trial Chamber I (Niyitegeka case) of the situation regarding the inability of the witnesses to travel to Arusha.

4. Between 11 June and 13 June 2002, the Registry's Witness and Victims Support Section in Kigali made strenuous efforts to obtain valid Laissez-passers for the witnesses to travel to Arusha by 14 June, and succeeded in obtaining the documents for three of the eight witnesses.

5. On Friday 14 June, the Tribunal's aircraft was sent to Kigali to convey the witnesses to Arusha. However, Rwandan immigration officials again declined

to permit the travel of the witnesses. The Rwandan authorities verbally informed ICTR Registry officials of a new requirement for advance notification to the Director-General of Immigration of impending witness movement and of a new regulation allowing witnesses travel only after having been cleared by the Director-General. Efforts by the ICTR to obtain clearance from the Director-General were unsuccessful as the concerned officials were unavailable. After several hours, the ICTR aircraft returned to Arusha without the witnesses.

6. On the same date, the Tribunal gave notice in writing to the Director-General of Immigration informing him that movement of the three witnesses to Arusha would now take place on Tuesday 18 June. He was also requested to provide the Tribunal with a comprehensive letter detailing the new procedures and requirements for witness movement that the Rwandan authorities had put in place.

7. On Monday, 17 June, Tribunal Registry officials met with the Director-General of Immigration and requested movement of the three witnesses to Arusha on Tuesday 18 June. The Director-General informed the Tribunal officials that all Laissez-passers issued previously were null and void. He stated that under the new procedures, witnesses holding old valid Laissez-passers were now required to produce "Attestations of Non-Pursuit" before they would be allowed to travel outside Rwanda to give testimony at the Tribunal. These documents were obtainable either from the Provincial Prefecture Offices or the General Prosecutor of the Prefecture.

8. The Tribunal subsequently made strenuous efforts to obtain these attestations for the eight witnesses (several of them had by this time obtained the "Good Conduct" and "Proof of Identity" requirements). These efforts, however, achieved no success. In the meantime, the survivors' organization IBUKA continued to make constant announcements on Rwandan Radio urging non-cooperation between Rwandan citizens and the ICTR.

9. On 19 June 2002, Trial Chambers I and II of the ICTR issued Oral Decisions regarding the unavailability of witnesses, reiterating the obligations of the Government of Rwanda under the Statute of the Tribunal. These Decisions were promptly transmitted to the Government of Rwanda by the Tribunal's Registrar as instructed by the Trial Chambers.

10. The Prosecutor has also encountered difficulties in obtaining the transfer of detained witnesses. A detainee due to appear to testify in the Butare trial was scheduled to travel from Rwanda to Arusha in June 2002, pursuant to a Trial Chamber order under Rule 90 *bis* of the Tribunal's Rules of Procedure and Evidence. The request for the travel authorization concerning this detained witness was submitted to the Ministry of Justice on 7 June 2002, followed by a further letter of 12 June 2002. To date, and despite the direct intervention by the Prosecutor, the Minister of Justice has not signed the letter authorizing the witness' travel to Arusha. In the Niyitegeka trial, the Prosecutor requested from the Rwandan authorities almost two months ago the letter that is required to be submitted to the Tribunal, under Rule 90*bis*, for an order to transfer a detained witness. This letter has, to date, not been provided by the Rwandan authorities.

Furthermore, the Prosecutor is concerned by the fact that, over the last eight weeks, all requests sent to the Rwandan authorities to meet with this detained witness have proved unsuccessful and have recently been denied outright.

Impact of the Unavailability of Witnesses on Trials

11. As a result of the unavailability of witnesses, Trial Chamber I on 19 June 2002 postponed the Niyitegeka trial to 13 August 2002. On the same date Trial Chamber II postponed the Butare trial to 14 October 2002. Prior to the postponement of these trials, seven full trial days were lost in the Niyitegeka case and 19 trial days were lost in the Butare case due to the unavailability of prosecution witnesses.

12. From the foregoing, it is clear that the absence of cooperation from the Government of Rwanda, manifested in the failure to issue travel documents for witnesses in a timely manner, has severely disrupted and delayed trial proceedings at the ICTR, setting them back by several months.

13. At this time, there is no guarantee that the future trials scheduled to resume in the coming weeks will proceed smoothly, if the Rwandan authorities do not remove arbitrary impediments to the travel of witnesses. It is important that the Government of Rwanda resume cooperation with the Tribunal in an unambiguous manner.

14. The Prosecutor is deeply concerned by the situation. For the cases scheduled to resume in the coming months, she is planning to call witnesses from outside Rwanda in order to overcome temporarily the unavailability of witnesses from Rwanda. The Prosecutor is in effect having to call its witnesses according to their availability rather than in any chronological or strategic order. Of those witnesses in Rwanda who are in principle willing to co-operate with the ICTR, and who have in the past given statements to the Tribunal, the majority are only prepared to come and testify at the ICTR if the current crisis is resolved and if the survivors organisations (IBUKA and AVEGA) resume their co-operation with the ICTR.

15. It is noted that five prosecution witnesses travelled from Rwanda to Arusha on 2 August 2002. However, the Tribunal has not yet received the required cooperation from the Rwandan authorities concerning other witnesses, and also concerning other areas of cooperation, as highlighted hereunder.

Other Acts of Non-Cooperation

16. The Prosecutor is also very concerned by the fact that several requests for co-operation that she has addressed to the Rwandan authorities are still pending, unanswered.

17. On 13 March 2002, a request was addressed to the Rwandan Minister of Defence, for access to the archives of his Ministry and that specified documentation be made available.

18. On 13 March 2002, another request was addressed to the Minister of Defence for permission to make aerial, still pictures and video footage of certain named military barracks, of interest in the Bagosora case.

19. In March 2002, a request was addressed to the Director-General of Immigration for information on the passports issued to an accused person currently on trial. Although the Director-General initially responded that he would look into the matter, he responded on 10 June 2002, indicating that he required an authorization from the Minister of Justice in order to take necessary action. The Prosecutor sent a letter on 11 June 2002 to the Minister of Justice, requesting the said authorization. No response has been received to date, despite the direct intervention of the Prosecutor with the Minister of Justice.

20. In July 2002, a letter was sent to the Minister of Defence, requesting his authorization for a trial team to visit certain sensitive military sites under the Ministry of Defence. The trial team returned to Arusha without fully accomplishing its mission, owing to non-cooperation from the Rwandan authorities.

21. In July 2002, the authorization of the Chief Prosecutor of the Military Tribunal in Rwanda was sought to allow staff of the Office of the Prosecutor of the International Tribunal to meet certain detained witnesses in preparation for their testimony in pending cases. The authorization was not granted.

22. Regarding the investigations, in furtherance of the mandate of the International Tribunal, of crimes allegedly committed by members of the Rwandan Patriotic Army in 1994, the Prosecutor reiterates that, despite assurances given to her in the past, no concrete assistance has been provided to her Office in response to repeated requests regarding these investigations. Without the cooperation of Rwanda, the Prosecutor is unable, at this stage, to finalize these investigations.

23. Defence Counsel have also reported to the Trial Chambers instances of non-cooperation by Rwandan authorities over consultations with defence witnesses and access to archive information in Rwanda.

III. OTHER ISSUES RAISED IN THE GOVERNMENT OF RWANDA'S REPLY

Treatment of Witnesses

24. Section 2.5 of the Rwandan Government's report ("Treatment and Protection of Witnesses") states: "witnesses have long complained of mistreatment while in the care of the ICTR." The facts are different: **Every prosecution witness who travels to Arusha and comes under the care of the Witness and Victims Support Section-Prosecution (WVSS-P) is asked to complete an end-of-visit "service evaluation" questionnaire. The responses to each question in this questionnaire for all witnesses who completed it are recorded. Of the 206 witnesses supported by WVSS-P since 2000, a total of 64 per cent responded to the questionnaire as of April 2002. On all aspects of the**

WVSS-P's operation, over 91 per cent of these witnesses rated the care and service as either good or excellent. Further, for other important aspects such as security, 100 per cent of the witnesses evaluated the service as either good or excellent. Critics blur the distinction between the administrative treatment of witnesses (including travel and accommodation arrangements), their treatment while giving evidence in court and the follow-up after testifying. Complaints have been based mainly upon the adverse reaction of some witnesses to having their evidence challenged, sometimes robustly, during cross-examination in court, a procedure which does not exist in Rwandan courts. So far as is possible witnesses are prepared for their first experience in court beforehand and cross-examination is conducted under the supervision of the judges as to the relevance and appropriateness of questions put.

Protection of ICTR Witnesses

25. Over 80 per cent of ICTR witnesses are protected witnesses who testify anonymously and are given appropriate security protection before, during, and after testifying. It should be noted that the protection of Rwandan citizens within Rwandan territory is the responsibility of the Government itself. Where necessary, witnesses thought to be particularly at risk are relocated within or outside Rwanda. More than 500 witnesses have testified before the Tribunal so far. No case of a witness being attacked or killed because of their evidence has been reported to the Tribunal. Several former witnesses have succumbed to injury or disease and one violent death in circumstances wholly unrelated to the Tribunal was reported.

26. The measures recently introduced by Rwandan authorities for the travel of witnesses for the Tribunal have not only caused delays but have also potentially compromised protection measures adopted for their safety by requiring them to reveal the reason for their travel at the lowest level of administration in the locality of their residence. Attestations of "Good Conduct" and "Non-Pursuit" only increase the exposure of such witnesses, which should be reduced to the barest minimum in order to ensure the practical implementation of protection orders issued by the Tribunal for such witnesses. Prosecution witnesses from Rwanda have reported to the officials of the Tribunal's WVSS-P that these new regulations established by the Rwandan authorities are causing them concern for their security because they are being subjected to rigorous interviews that expose their identity and intent to testify. Furthermore, it has been observed that Rwandan officials question some witnesses seeking to travel to Arusha about the extent and nature of their testimony. These actions are incompatible with witness protection measures.

27. Section 2.5 of the Government of Rwanda's Reply quotes an Amnesty International report as stating: "The Victims and Witness Unit does not have any personnel with expertise and experience in the protection of witnesses at a national level."

(a) First, it should be noted that this Amnesty International report is dated April 1998 (AI Index: IOR 40/03/98), and describes the observations of an Amnesty delegation that visited the Tribunal in October 1997. The Amnesty report goes on to

note: "More staff with the relevant expertise and experience will soon be recruited to the Unit" (p. 18). This report is thus almost five years out of date and does not reflect the quality of staffing and expertise in the Tribunal's witness protection operations today.

(b) Second, the Amnesty report cited by the Government of Rwanda's Reply notes that an observed weakness in the ICTR's witness protection program at that time was that it "relies heavily on the Rwandese Government for the protection of witnesses" and that "the procedures demanded by the Rwandese Government to enable witnesses to travel to Arusha from Rwanda make it impossible to protect the identity of witnesses..." (p.18).

Slow Pace of Trials

28. This has been a constant cause for concern on the part of all those involved with the work of the Tribunal. Trials last generally for more than one year because of the great complexity of judicial proceedings involving witnesses and counsel from all over the globe while assuring that the highest standards of justice, and in particular the right of the accused to a fair trial, are maintained. Within those constraints the judges have constantly sought to streamline the Rules of Procedure in order to ensure that trials proceed as expeditiously as possible, and have assumed greater control of courtroom proceedings to increase the pace of trials. Changes to the Rules have helped to reduce the length of trials. At this time the greatest impediment to a faster pace of trials of detainees at the ICTR is the inadequate number of trial judges at the Tribunal. Thus, in July 2001 the President of ICTR presented a request to the Security Council for 18 *ad litem* judges to be appointed to ICTR in order to speed up the disposal of cases and to enable the Tribunal to complete its mandate by 2008. A decision by the Security Council on this request is expected soon.

29. There are currently 13 accused persons whose cases are ready for trial, but who must remain in detention awaiting trial because all the existing Trial Chambers are overburdened with ongoing trials and cannot take on new cases until these trials are completed. As of 31 July 2002, nine trials of 22 accused persons are in progress before the Trial Chambers. Each of the three Trial Chambers is adjudicating three trials on a rotation schedule.

Failure to Indict and Apprehend Genocide Suspects Still at Large

30. The Tribunal has indicted 80 persons to date. A total of 60 of these indicted persons were apprehended in 20 different countries and detained by the Tribunal, with eight persons already sentenced and one acquitted. The Tribunal thus has a strong record of arrests of indicted persons. Arrested persons (including some of those convicted) include the Prime Minister of the Interim Government of Rwanda, 11 Ministers of that Government in 1994, senior military officers, and other high ranking individuals.

31. The Prosecutor's investigators, with the cooperation of relevant States, are making sustained efforts to find and arrest indictees who are still at large. Indictees at large is a natural phenomenon of criminal investigations in every jurisdiction, as suspects usually do all they can to evade arrest.

Mismanagement

32. There is no problem of mismanagement at the International Criminal Tribunal for Rwanda. While the Tribunal faced management problems in its start-up phase in 1996, these problems have been progressively addressed through management reforms. The Tribunal is now an efficiently managed institution. These improvements have been acknowledged by a report of the Office of Internal Oversight Services, to which the Government of Rwanda refers[1], other management evaluations[2], and by the Government of Rwanda itself.

33. In its statement to the Fifth Committee (Administrative and Budgetary) of the General Assembly on the Financing of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia on 25 May 2000, the Rwanda Delegation stated, inter alia: "…. the ICTR, since its beginning experienced a lot of problems in finding its way of functioning efficiently due to internal administrative management difficulties as well as other external factors inherent to its operational conditions … However, during the last two years, we recognize some improvements and achievements of the Tribunal, in particular the reforms made by the Registrar".

34. Furthermore, the Members of the Advisory Committee on Administrative and Budgetary Questions undertook a mission to the Seat of the Tribunal at Arusha from 5-8 June 2002. The Committee reviewed various aspects of the management of the administrative and judicial support operations of the Tribunal and expressed overall satisfaction with the progress that has been achieved in the Tribunal's management.

35. The Tribunal has hired, and continues to hire, competent staff to fill vacancies. The budget of the ICTR for the biennium 2002-2003 was adopted by the General Assembly in April 2002. It appropriated 77 new posts to the Tribunal, bringing its staffing strength to a total of 942 posts. As of 31 July, and as a result of a continuing recruitment drive by the Tribunal's management, 796 posts are filled, giving the Tribunal a vacancy rate of 16 per cent. The remaining vacancies are projected to be filled by December 2002. Considering

[1] See Report of the Office of International Oversight Services on the follow-up to the 1997 audit and investigation of the International Criminal Tribunal for Rwanda (UN Document A/52/784), dated 6 February 1998. The report stated, inter alia, in its Summary: "Improvements were observed in virtually every area surveyed by the team of investigators and auditors". In para.6, the report stated: "Substantial changes have occurred in the Tribunal since the review by the Office of Internal Oversight Services in 1997".

[2] A report on the Evaluation of the Implementation of the Delegation of Authority in the Area of Human Resources – ICTR Progress and Evaluation, by the Office of Human Resources Management at United Nations Headquarters, dated 24 November 1999, concluded that the implementation of the Delegation of Authority to the Tribunal has been satisfactory. The Delegation to the Tribunal was extended to other areas of human resources management and cited as an example for extensions of delegations of authority to other overseas offices of the United Nations with similar organizational structures.

that the Tribunal's budget was approved just four months ago, and considering the average length of time recruitment takes in the Tribunal (three months), the statement in the Rwandan Government's reply "that the ICTR has simply failed to recruit staff" is not supported by the facts.

36. All staff members recruited by the Tribunal fully meet – and frequently exceed – the qualifications required for the positions they hold, as described in Vacancy Announcements. The Annual Personnel Report of the Tribunal for 2000 stated: "Recruitment indicators show that for the experience requirements, 87 per cent are above requirements, 13 per cent specifically meet the requirements and 0 per cent are below requirements" (page 31). Paragraph 97 of the Final Report of the Management Review of the International Criminal Tribunal for Rwanda, United Nations Department of Management, 22 May – 3 June 2001, states: "The conditions of service of ICTR are not considered by some staff to be competitive. In addition, the quality of life in Arusha and Kigali may not be attractive to some people. However, notwithstanding these conditions, ICTR has been able to attract qualified and experienced staff". As in every large organization, the performance of every staff member will not be equal, and thus a few staff may not meet performance expectations. In such cases, appropriate action is taken by the Tribunal's management.

Hiring of Perpetrators of Genocide as Members of Defence Teams

37. The Tribunal has not "hired and continues to hire perpetrators of genocide". No Tribunal staff member has ever been linked to or suspected of any of the crimes within the Tribunal's mandate. Potential staff of Rwandan nationality are carefully vetted by the Security Section before receiving an offer of employment. The cases to which the Government of Rwanda's Reply refers concern a very small number of defence team investigators and assistants who are engaged by lead counsel of defence teams and remunerated from the Tribunal's Legal Aid Fund. Two such persons who had been using false identities were arrested by the Tribunal and are awaiting trial. Three others whose background gave rise to serious concern (but insufficient evidence to justify arrest) were dismissed. One has been suspended pending investigations to establish whether the allegations regarding his involvement in the genocide can be substantiated. Screening measures have been tightened for defence teams and firm action will be taken whenever clear evidence emerges.

IV. CONCLUSION

38. The Security Council and the international community as a whole have rightly emphasized the importance of the work of the International Tribunal for Rwanda and the importance of the Tribunal completing its work expeditiously and with due regard to due process.

39. The International Tribunal believes that it has become similarly important for the Security Council to underscore the independence and impartiality of the Tribunal and the obligation of all States, including Rwanda, to cooperate with the Tribunal. It is only such cooperation and full respect for the independence

and impartiality of the Tribunal that will ensure the successful discharge of its mandate, including the conviction expressed in the preambular paragraphs of resolution 955(1994) of the Security Council, that the prosecution of persons responsible for serious violations of international law in Rwanda and its neighbouring states in 1994 would contribute to the restoration and maintenance of peace.

United Nations S/2002/924

Security Council

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14 August 2002

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Draft resolution

The Security Council,

Recalling its relevant resolutions concerning the situation between Eritrea and Ethiopia, in particular resolution 1398 (2002) of 15 March 2002,

Further recalling the report of 27 February 2002 of the Security Council Mission to Ethiopia and Eritrea undertaken in the period 21-25 February 2002 (S/2002/205),

Recalling the Delimitation Decision by the Boundary Commission of 13 April 2002 (S/2002/423), subsequently embraced by the parties as final and binding in accordance with the Comprehensive Peace Agreement signed in Algiers on 12 December 2000 (S/2000/1183),

Reaffirming its strong support for the Comprehensive Peace Agreement and the preceding Agreement on Cessation of Hostilities (S/2000/601), signed in Algiers on 18 June 2000 (hereafter referred to collectively as the "Algiers Agreements"),

Further reaffirming its strong support for the help in implementing the Algiers Agreements continuously provided by the Secretary-General and his Special Representative, including through their good offices, and for the role played by the United Nations Mission in Ethiopia and Eritrea (UNMEE) in the implementation of its mandate thereby contributing towards the completion of the peace process,

Reaffirming the need for both parties to fulfil their obligations under international law, including international humanitarian law, human rights law and refugee law, and to ensure the safety of all personnel of the United Nations, the International Committee of the Red Cross (ICRC) and other humanitarian organizations,

Further reaffirming its strong support for the African Union Liaison Mission in Ethiopia-Eritrea, and inviting the President ad interim of the Commission of the African Union to continue actively the role of the former Organization of African Unity in support of the peace process,

Having considered the report of the Secretary-General of 10 July 2002 (S/2002/744),

1. *Decides* to adjust the mandate of UNMEE, in order to assist the Boundary Commission in the expeditious and orderly implementation of its Delimitation Decision, to include with immediate effect:

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(a) demining in key areas to support demarcation, and

(b) administrative and logistical support for the Field Offices of the Boundary Commission,

in accordance with the recommendations provided by the Secretary-General in paragraphs 13, 14 and 17 of the above report, and resolution 1398 (2002), with the costs of civilian demining contractors and Field Office support to be funded as outlined in paragraphs 14 and 17 of the report;

2. *Endorses* the technical steps for territorial transfers as a broad framework for the process as recommended by the Secretary-General in his report, and decides to review, as necessary, the implications for UNMEE in this regard, while strongly urging the parties to provide their full and prompt cooperation in the process with a view to ensuring an expeditious transition for the benefit of the affected populations;

3. *Calls on* the parties to cooperate fully and expeditiously with UNMEE in the implementation of its mandate, as adjusted through this resolution, by abiding scrupulously by the letter and spirit of their agreements, and by resolving all outstanding issues in accordance with the Algiers Agreements;

4. *Encourages* the parties to continue cooperating, fully and expeditiously, with UNMEE on providing the information and maps required by the Mission for the demining process;

5. *Calls on* the parties to cooperate fully and promptly with the Boundary Commission, including by implementing without conditions its binding Demarcation Directions, by abiding promptly by all its Orders, including the two issued on 17 July 2002 (S/2002/853), and by taking all steps necessary to ensure the personal security of the staff of the Commission when operating in territories under their control;

6. *Appeals* to the parties to exercise restraint, and emphasizes that in accordance with article 14 of the Agreement on Cessation of Hostilities, the security arrangements are to remain in effect, and that, accordingly, arrangements for the separation of forces, as achieved by the Temporary Security Zone and through the contributions of UNMEE, will continue to be of key importance;

7. *Calls on* the parties to refrain from unilateral troop or population movements, including establishment of any new settlements in areas near the border, until demarcation and orderly transfer of territorial control has been accomplished, in accordance with article 4.16 of the Comprehensive Peace Agreement;

8. *Demands* that the parties allow UNMEE full freedom of movement and remove with immediate effect any and all restrictions on, and impediments to the work of, UNMEE and its staff in the discharge of its mandate;

9. *Expresses* its disappointment that there has been no progress regarding the establishment of a direct high-altitude flight route for UNMEE between Asmara and Addis Ababa, given the importance to the demarcation process of a direct flight route, and renews its appeal to the parties to work with the Special Representative of the Secretary-General in a spirit of compromise to settle the issue for the mutual benefit of all;

10. *Calls again on* the parties to release and return without further delay all remaining prisoners of war and civilian internees under the auspices of the International Committee of the Red Cross in accordance with the Geneva Conventions and the Algiers Agreements;

11. *Further calls on* the parties to increase their efforts to take other measures that will build confidence and promote reconciliation between the two peoples for their mutual benefit, including in particular the areas listed in paragraph 14 of resolution 1398 (2002);

12. *Encourages* the guarantors, facilitators and witnesses of the Algiers Agreements and the Friends of UNMEE to intensify their contacts with the authorities of both countries with the view to contribute to an expeditious demarcation process;

13. *Strongly emphasizes* the importance of an expeditious and orderly demarcation process in order to further peace and normalize the relations between the parties, to enable displaced persons to return home and in order for the parties to move completely beyond the border issue and pave the way for reconstruction and development as well as political and economic cooperation;

14. *Decides* to remain actively seized of the matter.